TRAWL RATIONALIZATION (AMENDMENT 20) HEARING SUMMARY – ASTORIA

Date: October 29, 2009
Location: Astoria, OR
Attendance: 44
Testifying: 14

Hearing Officer: Frank Warrens
Other Council Members: Phil Anderson, Dale Myer, Steve Williams
NMFS: Kevin Duffy
Coast Guard: Chad Thompson
Council Staff: Heather Brandon, Jennifer Gilden

Organizations Represented: Environmental Defense Fund, Lower Columbia Alliance for Sustainable Fisheries, Oregon Fishermen’s Cable Committee

Synopsis of Testimony

Of the 14 people testifying:

- One said they supported trawl rationalization but did not support an allocation to processors.
- Five said they did not want a 20 percent allocation to processors, but were not clear on whether they supported trawl rationalization over the status quo.
- Three said they supported the preliminary preferred alternative if it includes the 20 percent initial allocation to processors. Some expressed other reservations about the program.
- Three supported the adaptive management provision.
- Two did not support the adaptive management provision.
- One supported the area management provision.
- Two said they preferred status quo over trawl rationalization; one of these said that if rationalization goes forward, processors need to be protected.

Harvester Sector Comments

Fishermen will still go to the same processors even if processors don’t get a 20 percent allocation of quota share. A 20 percent allocation is too much for fishermen to give away, especially when combined with other allocations for adaptive management, etc.

Concerned about processor shares being owned by foreign companies.

Fishermen stay with the same processors for many reasons; will not switch processors after rationalization. Sees the 20 percent allocation to processors as taking 20 percent from fishermen’s income.

Cannot afford to participate in bottom fishing anymore. Generally anti-rationalization.

Wants to retain 20 percent processor share for fishermen.
Concerned about lack of new people entering fishery; concerned that rationalization will lead to a
loss of small fishing businesses and entry-level jobs for community members, especially those without college educations.

Concerned about protecting small fishing businesses. Against processor quota. Concerned about bigger fishing and processing businesses buyout smaller businesses. Feels processors do not need extra protection.

**Processing Sector Comments**

Supports processor allocation. Processors build and maintain community infrastructure. Adaptive management proposal is flawed, temporary relief that cannot be counted on for long-term planning. Carryover provision should be 30 percent, not 10 percent.

Concerned about protecting processor investments through the processor quota. Concerned that fishermen will switch processors. A harvester-only quota creates a new class of quota owners; those without quota (including processors) will suffer, along with communities. Concerned about foreign ownership/leasing of quota. Has reservations about adaptive management provision; doesn’t understand how it would work.

Supports processor allocation. Processing is an expensive business; don’t want to have to buy back into the business after investing so much. Concerned that individual fishing quotas offer an opportunity for speculation.

Prefers status quo, but need protection for processors and their investments. Concerned about negative impacts of Canadian rationalization program on processors.

Concerned about eligibility window for processor shares.

**Environmental and Conservation Interest Comments**

Supports adaptive management provision over processor allocations or landing zones. Supports dividing adaptive management among the three coastal states. Opposes initial allocation to processors.

Supports area management with break at 40°10’ for species not already managed through area management. Supports adaptive management, but believes more details are needed. Would like more quantified economic analysis of community impacts under different scenarios. Would like impacts of Amendment 20 and 21 to be considered together.

**Community Member Comments**

None.

**Other Comments**

None.

Written Statements (Attached)
Thank you Mr. Chairman: Testimony Astoria-Mike O-10/29/08

My name is Mike Okoniewski: I represent Pacific Seafood: I am responsible for the operations in our Woodland Washington division. We employ 100 people on a year around basis and up to 325 in peak production. This is a 300 ton freezing plant that represents an $8.5 million dollar investment. Our primary focus is whiting, bottom fish, and sardines.

We are here to today to discuss a new management system: Trawl Individual Quota: Objectives, even though analyzed over five years and in thousands of pages of documents remain ill defined.

In my mind there should only be three primary objectives: First: The best conservation practices to maintain healthy stocks. Second: Obtain the maximum value to the Public for the resource-This is not measured only by ex-vessel price and the lease price for quota pounds: and Third: Stabilize and Promote a healthy Industry which enhances market confidence and development.

No one has analyzed what different effects a Harvester Only TIQ against a Processor Shared plan would have on the markets. It appears most analysis treats the Processor as the end market. That is very short-sighted. In fresh Bottom-fish for example, we are in a dog fight for shelf space. The number one fillet in the world is Tilapia. Farmed salmon is in supermarket cases 365 days a year. Our real competition is Aquaculture. They have the unified strategy, capital investment (in billions), along with foreign government support, that places a laser focus in driving their products into that shelf space. We continue to fight each other. The market is not the fish plant—it is the consumer.

Whiting is different as it largely an export item and requires large freezing plants. Processors have invested amounts that far surpass boat investments. Processors were the ones that explored and created the original markets, and now new markets so we could move away from a surimi dominated profile. Now that we have made those investments and created those markets we are told we can step aside and grant all control to the permit owners.
I have been told by certain fishermen that nothing will change. They like where they deliver and if we ante up we can continue to have their catch.

The exact opposite will be true. There is excess freezing capacity. It was developed in order to service the whiting and sardine fisheries. In a Harvester Only TIQ the same thing will happen to the US whiting processor as in Canada. Each processor will either reduce their margins to cover just the operating costs in order to entice fishermen or they will not receive fish. This no longer will have the present checks and balances.

The only way around this is to buy or lease quota. This is capital investment that moves you away from product form and market development solely to protect our investments. It should be noted that not all processors will be able, or will want to, select this option; and again, like in Canada, they will shut down their plants.

A Harvester only Quota creates a third class of participants in the industry: We now have two: Harvesters and Processors. What we will add would be the Quota holder class. Whereas there is presently equilibrium; the Quota holders will hold all power in the New World. There will be only one economic driver: Extract Maximum Rent value for the lease of that quota. Quota holders that still own boats can fish or lease as they see fit. Harvesters that own no quota will either “sharecrop” or go out of business. Processors with no quota will lose control of their ability to run their businesses and will either buy quota or shut their doors. The communities and markets will be the ones that suffer the collateral damage.

It may not be politically correct to say this; but in this scenario it will only be a matter of time before the Quota holders will want the option to lease their quota offshore.

In the Olympia testimony we heard from a large holder of Alaska quota. He is in favor of nothing for the processor. Predictable. However, it is interesting that some of those who were huge benefactors from being Alaska quota recipients are now seemingly involved in the TIQ process. We know that some of these same Quota recipients no longer fish their vessels. They claim to be involved in the community and yet it
seems that much of the product they deliver goes through those communities to the metropolitan areas for processing. In addition it would be an interesting economic study to establish how much of the monetary gain from IQ handouts in Alaska is now being used to target permit or quota acquisition in other regions.

This quota consolidation and consortium structure is exactly what we have seen in Canada. It is also what we can expect if we hand all Trawl quota shares over to the LE permit holders. If Processors are allocated quota at Pacific it will be used to retain and promote the health of our entire fleet. We do not want another buyback event.

My preference is and has always been a Cooperative approach. Allocating limited access privilege to resource automatically triggers adversarial relationships. This is the opposite of what we need if the industry is going to thrive, and not atrophy. If we are going to meet the real competition and achieve the greatest return of the resource it will take balance and cooperation—not a battle over the resource.

Perhaps cooperatives could emerge if the processors were allocated 20% of the shares? The logic for cooperation is still there; if the goal is to promote the entire Industry and not just a few.

Adaptive management: We simply do not know how it could work. We have many doubts whether it could be constructed into a viable business plan.

Again we believe the only rational and equitable solution we have before us is to allocate a minimum of 20% to the Processors. Please support the June Council Preferred Alternative. If no quota is allocated to Processors the last 5 years will look tame in comparison to the war we start. This Industry which many of us love will go into a self-destruct mode. The bleed over will extend far beyond the ground-fish and whiting fishery. It will impact every fishery, those markets and all fishing communities on the West Coast. There will be no winners in the end. We can avoid this by choosing the June preferred alternative.

Thank you
Mr. Donald K. Hansen, Chairman
Pacific Fishery Management Council

Bernie Bjork
36293 Bartoldus Loop
Astoria, OR 97103

October 29, 2008

Dear Chairman Hansen;

My name is Bernie Bjork, and I live at 36293 Bartoldus Loop, Astoria. Thank you for allowing me to speak before you. I am a retired commercial fisherman of 30 plus years and am here to promote an IFQ system for our local independent small boat drag fishermen, without any quota for processors. My experience in the Alaska Halibut fishery for over 20 years, 9 of those years under an IFQ system, gives me first hand knowledge of how well that system works. The Alaska Halibut IFQ system works very well without any processor quota shares.

The following local Warrenton based drag fishermen asked me to represent them at this meeting; Blair Miner—F/V Columbian Star, Paul Kujala—F/V Cape Windy, Kelly Smotherman—Fate Hunter, Scott Smotherman—Cape St. James, Gary Wintersteen — F/V Nicole, and Gary Sjostrom—Home Brew.

We have acquired four very important pieces of information supporting our opposition to processor quota shares. The first one is two letters written by Bob Alverson, a former member of the Pacific Fishery Management Council (PFMC). In his first letter he clearly shows how in the only other fishery that has a Processor quota system, the Bering Sea King Crab Fishery, a full 50% of the processor shares are controlled by the Japanese. In his supplemental letter he clearly states that the shorebased processors chose an investment strategy that did not include the huge liability risks involved with fishing vessels. Therefore, they are not entitled to 20% of the quota.

The second piece of evidence is an email that I received from Jobanna Thomas, West Coast Director of Oceana for Environmental Defense Fund. In the email she explains that the most important groundfish advisory group to the PFMC, the Groundfish Allocation Committee (GAC) clearly advises the PFMC that there should not be processor quota.

The third very important piece of information supporting our side is a letter written by Senators Wyden, Feinstein, and Boxer, along with numerous Representatives including Peter DeFazio and Darlene Hooley. The letter states, “fishermen and other constituents have expressed serious concern with one element of the IFQ package-initial allocation of harvesting shares to processors. The Council’s decision to grant 20% of the quota to processors will harm fishermen by increasing consolidation and marketing power in the processing sector, while failing to meet the Council’s stated goal of protecting coastal communities. This component sets bad precedent and could undermine the success of any IFQ program.”

And the fourth bit of information supplied is the Resolutions the Clatsop County Commission passed at their August 27th meeting, and the Warrenton City Commission passed at their September 23rd meeting. The County Commission and Warrenton city Commission, after being asked by local processors to rescind their first Resolutions, upheld their original Resolutions.

The information that I have provided demonstrates the concern of many very influential people. They clearly feel, like I do, that processor shares should not be a part of our local Groundfish Fisherman’s IFQ system.

Truly,

Bernie Bjork
August 19, 2008.

Mr. Donald Hansen, Chairman
Pacific Fishery Management Council
7700 N.E. Ambassador Place, Suite 100
Portland, OR 97220-1384

Dear Chairman Hansen,

The Fishing Vessel Owners' Association (FVOA) represents 95 independent fishing families and the vessels they operate. All of our members are fixed-gear harvesters. The members fish approximately 45 fixed-gear limited-entry permits off the lower coast and have about 10 trawl limited-entry permits. Our interest is representing the concerns of our members who have purchased these trawl permits. We support the development of a market-based TDM and the future of the West Coast trawl fisheries. We support the current stock splits and other regulatory requirements found in the preliminary preferred action taken by the Pacific Council at its June 2008 meeting.

We oppose the allocation of 20% of the extended trawl Individual Transferable Quota (ITIQ) by a vessel owner to the shorebased processors. The rationale for this allocation was stated in June as to offset alleged new marketing "power" realized by the harvesters once ITIQs are issued. However, it has been noted by the Council that, currently, under the status quo management, the marketing power favors the shorebased processors. We believe the 20% proposed allocation is solely an economic allocation and is, therefore, prohibited by National Standard 5. We also believe that, because it is the fishermen's earned fishing history that serves as the basis for quotas, and the proposed 20% allocation to processors would arbitrarily transfer quota earned by fishermen and not by processors, the allocation is prohibited by National Standard 4. The impact on communities, described below, runs afoul of National Standard 8.

National Standard 4 states: "...If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (a) fair and equitable to all such fishermen; (b) reasonably calculated to promote
conservation; and (c) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges."

National Standard 5 states: "Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose."

The current status of the trawl fishery is the result of several major decisions of the Council taken over three decades. There was an overarching goal by the Council to have a fishery that supplies markets year-round. This goal has failed because the Council has never been able to match the goal of 12-months' availability of fish with harvesting capacity and the ever-changing catch limits (TACs). The Council is now ready to adopt a market-based program that will allow the fleet to match harvest capacity with the availability of resources and market demand for these resources.

For the first time in three decades, this will allow harvesters to enjoy an "open market," a market where the "goods" (fish) produced are not encumbered by bi-monthly trip limits which, relative to market demand, funnel too much fish in too short a period of time to a few processors. The current bi-monthly trip limit structure for harvesting and landing fish results in a form of a "closed market" to harvesters. The time to set up fish deliveries based on negotiated prices, and the ability to hold product until the market becomes more competitive, is the new power we believe the Council identified in June but did not articulate fully.

The bi-monthly deliveries, because of the collapse of the TACs and still too many vessels, has resulted in the fleet fishing the last days of one bi-monthly timeframe and harvesting the next bi-monthly trip limit in the beginning of that time-frame. This structure causes most of the available fish for a four-month period to be delivered in 2-to-3 weeks. The harvesters have been forced to adopt this harvesting strategy in order to catch enough volume to operate economically. To harvest the bi-monthly limits in some other timeframe would result in an insufficient income to operate and attract a crew.

The status quo has created a bi-monthly pulse fishery forcing the harvesters into the position of flooding the market three times a year. Phil Anderson mentioned the current situation puts the processors in a position of power over the harvesters. We agree. None of the above operational actions by the harvesters would be logical, if the harvester operated in an "open market," where one could reasonably negotiate each delivery such as is done through the Homer Auction, FVOA's Seattle Fish Exchange, Holland's reverse auction, and the Japanese Segul Market Auction System. When using these forms of competitive bidding, the harvesters have never before been required to allocate 20% of their fish to the buyers as a prepayment for competing in an open market. It is instructive that never before has there been any justification identified that supported implementation of such an allocation.
The Council's 8-to-4 vote would imply most Council members believe there truly is a new economic power provided to the harvester with the TITQ program. We maintain that the so-called new power of harvesters is nothing more than a restoration of the open market position they enjoyed, before the resources declined and fleet capacity became too large relative to the available harvests. That power is simply the ability to ask two or more buyers to provide competitive bids for the goods produced by the harvester. The processors have received the fish under a closed market situation from the harvesters, as noted by Phil Andersón, and in turn, have sold their finished product to various North American, Asian, and European markets (i.e., open markets).

The ability to enjoy an open market where there are two or more suppliers and two or more buyers is fundamental to the optimal operation of Capitalism. Without the ability to negotiate freely, market distortions are unavoidable. The so-called new power provided to the harvester is a marketing opportunity harvesters should enjoy in accordance with the principles of our economic system. The power of the open market to the harvesters under a TITQ program is matched by power that the processors have always exercised, the ability to negotiate with their buyers at the 1st, 2nd, and 3rd wholesale levels. Seafood Business shows the following for gross sales by processors:

<table>
<thead>
<tr>
<th>Rank</th>
<th>Company</th>
<th>Gross Sales</th>
</tr>
</thead>
<tbody>
<tr>
<td>#2</td>
<td>Trident Seafoods</td>
<td>$1,000 Million</td>
</tr>
<tr>
<td>#3</td>
<td>Pacific Seafoods</td>
<td>$875 Million</td>
</tr>
<tr>
<td>#6</td>
<td>Unilca</td>
<td>$750 Million</td>
</tr>
<tr>
<td>#7</td>
<td>American Seafoods</td>
<td>$550 Million</td>
</tr>
<tr>
<td>#12</td>
<td>Ocean Beauty</td>
<td>$420 Million</td>
</tr>
<tr>
<td>#11</td>
<td>Aqua Star</td>
<td>$430 Million</td>
</tr>
<tr>
<td>#14</td>
<td>Icicle Seafoods</td>
<td>$350 Million</td>
</tr>
<tr>
<td>#22</td>
<td>Peter Pan Seafoods</td>
<td>$240 Million</td>
</tr>
<tr>
<td>#22</td>
<td>Golden Alaska Seafoods</td>
<td>$240 Million</td>
</tr>
</tbody>
</table>

...Seafood Business, May 2008

With TITQs, the harvesters will no longer be held hostage to a market distorted by bi-monthly delivery requirements.

The open market that the processors have enjoyed over the last three decades has benefited them greatly. However, the Pacific coastal harvesting vessels, that do not have some Alaskan opportunities, are currently near bankruptcy, are poorly maintained, often do not have insurance, are frequently tied up, and generally produce poverty-level wages. This contrasts with the tremendous wealth reflected in gross sales of the processors, as reported by NMFS. The Council's proposal to have fishermen pay a 20% premium to the processors for being granted an open market is entirely unfair and arbitrary.
There is no economic theory that justifies the kind of transfer proposed by the Council which is placed on the back of harvester labor and small family vessels owners. Not surprisingly, there is no justification provided in the EIS. The proposal is for nothing more or less than solely an economic allocation proscribed by Magnuson-Stevens Act National Standard 5.

The Pacific Council must recognize that processor leverage and marketing power are not just limited regionally to the area of responsibility to the Pacific Council. The processor assets through the American Fisheries Act ("AFA") legislation and Bering Sea/Aleutian Islands crab rationalization program in Alaska provide marketing leverages on the Pacific Council area. The Japanese fish company of Maruha and Nichiro recently merged, making Maruha now a $9 billion in sales company. The merged operation has many marketing agreements with the at-sea processors, motherships, and shorebased operators in the Pacific Council area of authority, as well as in Alaska. Through these marketing agreements control over IFQs and processor shares is being exerted both in Alaska and off the lower Pacific Coast.

The Washington State's and Alaska's Attorney General's offices have been looking into these market relations recently due to the merger of Nichiro and Maruha, each was a global seafood buyer. Together they are now the largest seafood buyer in the world. The U.S. Government allocated crab processor quota share privileges to the Bering Sea processors. These processor quotas guarantee each processor their historical share of processed Bering Sea crab. The shares are published by National Marine Fisheries Service (NMFS) and are as follows:

<table>
<thead>
<tr>
<th>Company</th>
<th>Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trident Seafoods Corporation</td>
<td>26%</td>
</tr>
<tr>
<td>Unisea, Inc. &amp; Royal Aleutian</td>
<td>21%</td>
</tr>
<tr>
<td>Peter Pan Seafoods, Inc.</td>
<td>15%</td>
</tr>
<tr>
<td>Westward Seafoods, Inc.</td>
<td>13%</td>
</tr>
<tr>
<td>Icicle Seafoods, Inc.</td>
<td>10%</td>
</tr>
<tr>
<td>Alyeska Seafoods, Inc.</td>
<td>5%</td>
</tr>
<tr>
<td>Sino pac Products, Inc.</td>
<td>4%</td>
</tr>
<tr>
<td>Yardarm Knot, Inc.</td>
<td>4%</td>
</tr>
<tr>
<td>Others</td>
<td>2%</td>
</tr>
</tbody>
</table>

Unisea, Inc., Peter Pan Seafoods, and Westward Seafoods are each 100% owned by Japanese interests. Alyeska Seafoods is owned with about 50% Japanese interests. The total processing shares controlled by Japanese investors of U.S. crab processing rights is over 58%. In addition to this, Maruha now owns 100% of Peter Pan Seafoods, 100% of Westward Seafoods and 50% of Alyeska Seafoods with the recent merger in Japan. Maruha alone controls nearly 38% of all processed U.S. crab. Prices to fishermen are now controlled through government imposed arbitrations to help make sure the harvesters get a fair price. Japanese-controlled companies control over 50% of the wholesale markets for Bering Sea crab. This
marketing power has an impact on the lower coast Dungeness processing and their competitive position as processors.

Trident Seafood representatives have testified before the NPFMC stating the overall crab asset rights maybe worth $1.1 to $1.2 billion and crab processors shares worth $89,684,941. Pollock, if valued at $2500 to $3000/ton, has an asset value of $2.5 to $3 billion, and non-pollock species in the Bering Sea has an asset value of $1.0 billion.

In the AFA, pollock was similarly allocated to certain groups. The Act allocated pollock 50% to catcher vessels harvesting pollock for processing by the inshore component, 40% to catcher/processors and catcher vessels that catch and deliver to a catcher processor and 10% to catcher vessels delivering to mother ships.

The percent of processor control of the shore based allocations by the Japanese investors for pollock is: Peter Pan Seafoods (Maruha) – 2.876%; Unalaska Co-op (Ayesha) (50% owned by Maruha) – 12.181%; Unisea Fleet Cooperative – 25.324% and Westward Seafoods – 18.906% (Maruha). The Japanese investors control 53% of the shorebased processing of pollock, with Maruha controlling 27.7%.

Trident Seafoods, through Akutan Catcher Vessel Association, controls 31.145% of the shorebased pollock plus pollock harvested by their catcher processor fleet such as the America Enterprise, Kodiak Enterprise, and Seattle Enterprise. Trident, at a minimum, controls 25% of all crab processing rights in addition to significant Pollock co-op rights and at-sea processor pollock rights. Seafood.com recently reported the pollock company of Alaska Ocean, Inc., sold to Glacier Fish for $185 million. It was reported they controlled 40,000 tons of pollock. Trident's control of pollock is more than this and that asset value enables them to be very competitive off the lower Pacific Coast, relative to any new competitive power that might be provided to the harvesters or new processors. The request by the processors for 20% of the fishermen's TITQs is a grab-for-asset value. It utterly fails to address the Pacific Council's problem statement of bycatch and race for fish.

The Pacific Council needs to recognize the tremendous asset value many of the processors off the Pacific Coast have already received through their Alaskan operations and marketing arrangements. The Pacific Council must recognize that allocating 20% of the harvesters TITQs to the processors will put the harvesters in a dramatically and unfairly weaker condition to negotiate than Phil Anderson described. The EIS suggests the harvesters will need to consolidate by 40%. This will require harvesters to buy each other out. If the processors have 20% of the quota, consolidation will likely be more like 60%, putting an even greater economic burden on the harvesters. Allocating 20% of the fishermen's quota will only exacerbate this economic power the processors already have over the harvesters. Unfortunately the Council has not put any design features into the TITQ program with respect to the shorebased sector that would differentiate between harvester quota and processor owned TITQs. Based on the current design, the fishery will
likely be vertically integrated in a short period of time with the harvester in an increasingly weakened negotiating position.

The Council heard from a number of economists from the "Panel of Experts" that the Council put together. The resulting input, including that below, shows that the proposed allocation to processors runs afoul of National Standard 8, which provides: "Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities."

The Council was informed, as follows:

To meet the second objective of preventing the location of landings from shifting radically from the current communities, an analysis would have to demonstrate why the processing sector would be any less likely to shift locations than fishing vessels, once issued IFQs.

Currently, siting of processing plants responds at least partly to the location of fishing fleets. With control of IFQs, processors could exploit economies of scale in processing by consolidating into fewer plants and requiring that the fishing vessels who lease their IFQs land at those sites. Thus, there are potential community instabilities exacerbated under the processors' quota options. These are issued requiring analytical attention.

Issuing IFQs to processors introduces some additional possible complications that are not discussed in the presentation of alternatives. Suppose that one or a few processors have a dominant position in the processing industry and that they also deliver a large enough fraction of the fresh groundfish to local markets to affect price. Does the Processor Quota alternative then give them additional market power (monopoly power to restrict supply to achieve a higher market price for groundfish in product markets, or monopsony power to restrict purchases of fish from the fishing fleet to reduce price of landed fish)?

The members of FVOA believe that the 20% allocation of fishing history is economic corporate welfare and tribute to the processors in order to enjoy an open market by the harvesters. We believe this allocation fails under National Standards 4, 5, and 8. Phil Anderson, at the June Council meeting, mentioned the current regulations give processors the superior negotiating position, and we agree. The processors have far more than adequate marketing power with their leverage in Alaska and the lower coast without further strengthening their position by taking 20% of the quota and income base away from the harvesters, harming those who
earned the quotas and adversely affecting fishery dependent communities. We urge rejection of the 20% allocation of TITQs to the processors.

Sincerely,

Robert D. Alverson
Manager

RDA:cmb
October 17, 2008

Mr. Don Hansen, Chairman
Pacific Fishery Management Council
7700 N.E. ambassador Place, Suite 101
Portland, OR 97220-1384

RE: Trawl ITQs – Supplemental Comments for non-whiting & shoreside whiting QS

Dear Chairman Hansen:

The following comments are supplemental to the ones we submitted on August 19, 2008. There are several provisions of the preferred Council action on ITQs that we would like amended. We have a recommendation with regards to excessive shares, and we are concerned that there are few safeguards in the proposed action to help shape the control and usage of non-whiting and whiting quota shares. We remain opposed to the 20% allocation to the shorebased processors and have added a few comments regarding this issue. The following are our requested changes to the ITQ program.

1. Excessive shares – Once the Council determines the level of excessive shares, if a recipient of ITQs is in excess of the limit, we request the Council provide three years for that entity/person to liquidate the excessive amount. There have been suggestions that if an entity/person is in excess of the limit set by the Council, that NMFS would only be authorized to allocate an amount less than the excess share limit. We would point out that the Council has never established an excessive share of owning or controlling existing trawl permits. Therefore, people have made investments based on existing Council decisions. We believe the Council’s ITQ program would be more legally defensible with our suggested three-year sell-off provision and fairer to current L.E. permit holders.

2. Shorebased quota shares non-whiting and whiting – The Council has not deemed it necessary to put ownership and control mechanisms that would recognize the current social and cultural relationships within the coastal communities between harvesters and processors. There are no restrictions proposed once ITQ quota shares are issued that would prevent processors, or any other investors from buying up to a maximum limit. In quota share proposals developed in New Zealand, where
there were no restrictions on ownership and control between processors and harvesters, the fishery quickly evolved into vertically owned operations with the second generation harvester being forced out. We request the Council add a restriction that keeps QS in the hands of harvesters. In other words, the quota allotted to harvesters would become harvester quota and not eligible to be purchased by processing interests. Such a restriction will help keep harvesters harvesting and processors, processing and protect the fishing communities from "company store" vertical integration. Without an owner restriction of this sort, the independent shorebased harvester will be eliminated from the West Coast.

3. We oppose the Council's preliminary preferred action to allocate 20% of the non-whiting and shorebased whiting to the shorebased processors. Some Council members have indicated they have not heard well reasoned arguments against allocation of harvesting shares to processors. The following are rationale against the allocation to shorebased processors in addition to the comments previously provided to you by the Association.

(a) The choice of someone's investment strategy provides insight into the expected return on investment. A processor can invest as a catcher processor, a mother ship, or a shorebased processor. Each investment has different risks and expectations. A catcher processor’s investment allows you to be vertically invested with no raw product cost, such as, paying an ex-vessel cost to a harvester. It allows you to go from raw product to the retail market. It can provide a high quality product, as fish are processed quicker than shoreside. The investment does come with the risks of knowing how to hunt and catch fish, gear investments, and hiring of harvester personnel. A mothership allows an investor to be on the grounds for high quality processing, from at-sea harvesting vessels.

The mothership can offer faster trips for a harvesting vessel because their running time to a shorebased processor is eliminated. It provides efficiency to the catcher vessel and high quality to the floater. However, the mothership does not invest in the risks of catching the fish. The shorebased investor could have invested as a CP or mothership, but chose a different investment.

The shorebased investor knows that a competitive price and distance to the fishing grounds are his economic advantages or disadvantages. The shorebased processor has chosen not to be a harvester and specifically avoided the high cost and legal ramifications of operating as a catcher vessel, mothership, or CP. The liability aspects are significant once you’re invested in a boat. You avoid those risks with shorebased investment. The catcher boat’s investment is based on the ability to hunt and harvest fish and deal with closed areas for habitat or RCAs and bycatch of over fished species.

Catcher processor, mothership, shoreside processor, or "harvesting-only vessel" investments, each have certain unique investment motives providing
unique benefits to each investment choice. Taking the "harvester only" fish and giving it to the shoreside processors cannot be justified based on the investment risks of a shoreside processor. Each investor knows what they were getting into. Each has a unique rationale and expectations for their initial investment choice. If you are a shorebased investor, you know you are going to be restricted to your ability to be competitive in a port with other processors. If you are not competitive, a harvester can move to other processors or ports based on the Port Preference Act of the Constitution. It states:

“No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.”

There is no investment risk made by the shorebased processors that justifies the catcher vessels catch going to the shorebased processor.

(b) Choosing a QS program based on certain years of participation and production is much like our national policies in the past for granting rights to homesteaders who work the soil for five years, growing wheat, or corn. Does it make sense that the granary would get a portion of the homesteading production or land? We believe the answers to be no for either a farm or a fisherman.

(c) The Council invested in the advice from a panel of economic specialists that told the Council the following:

“The presumption is that such an allocation is intended either to compensate established processors for potential losses associated with “stranded assets” or to prevent the location of landings from shifting radically from the current communities. To meet the second objective of preventing the location of landings from shifting radically from the current communities, an analysis would have to demonstrate why the processing sector would be less likely to shift locations than fishing vessels, once issued IFQs.” This has not been done.

“With control of IFQs, processors could exploit economies of scale in processing by consolidating into fewer plants and requiring that the fishing vessels who lease their IFQs land at those sites. Thus, there are potential community instabilities exacerbated under the processor quota options.”

“Issuing IFQs to processors introduces some additional possible complications that are not discussed in the presentation of alternatives. Suppose that one or a few processors have a dominate position in the processing industry and that they also deliver a large enough fraction of the fresh groundfish in local markets to affect price. Does the Processor Quota alternative then give them additional market power (monopoly power to
restrict supply to achieve a higher market price for groundfish in product markets, or monopsony power to restrict purchases of fish from the fishing fleet to reduce price of landed fish, or ....

According to the Stock Assessment and Fisherles Evaluation documents for the groundfish fishery, three shoreside companies account for 75% of all landings. In fact, as it turns out, the concerns of the economic specialists are real ones.

(d) In our previous paper to you, we showed you how the processors have been profitable. The gross sales are as follows:

<table>
<thead>
<tr>
<th>#</th>
<th>Processor</th>
<th>Sales (Million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>#2</td>
<td>Trident Seafoods</td>
<td>$1,000</td>
</tr>
<tr>
<td>#3</td>
<td>Pacific Seafoods</td>
<td>$875</td>
</tr>
<tr>
<td>#6</td>
<td>Unisea</td>
<td>$750</td>
</tr>
<tr>
<td>#7</td>
<td>American Seafoods</td>
<td>$550</td>
</tr>
<tr>
<td>#12</td>
<td>Ocean Beauty</td>
<td>$420</td>
</tr>
<tr>
<td>#11</td>
<td>Aqua Star</td>
<td>$430</td>
</tr>
<tr>
<td>#14</td>
<td>Icicle Seafoods</td>
<td>$350</td>
</tr>
<tr>
<td>#22</td>
<td>Peter Pan Seafoods</td>
<td>$240</td>
</tr>
<tr>
<td>#22</td>
<td>Golden Alaska Seafoods</td>
<td>$240</td>
</tr>
</tbody>
</table>

The Council-sponsored study on the economic effect of IFQ management in the Pacific groundfish fishery found that groundfish fishermen currently have a profit margin of "zero".

In summary, we have provided the Council with some suggested final actions on dealing with excessive ownership caps, separate ownership and control between harvesters and processors for harvester QS, and added some arguments in opposition to an allocation to shorebased processors. Thank you for your consideration.

Sincerely,

[Signature]

Robert D. Alverson
Manager

RDA: cmb
Hi Bernie and Pat,

Bernie asked if I would send an update on today's vote by the Groundfish Allocation Committee (GAC) about processor shares.

The GAC is composed of all the State and Federal agencies that sit on the Pacific Fishery Management Council, and the GAC's direction is very important for the full Council. The council usually adopts the GAC's recommendations wholecloth since the GAC makes very measured decisions.

Today, the GAC voted against processor allocation. In doing so, they reaffirmed the vote they took in May. They also voted strongly in favor of using the Adaptive Management Program as the best way to provide community stability under the IFQ program.

I hope this is helpful as Clatsop County Commission and Newport Port Commission contend with the processors' late efforts to get these bodies to reconsider their vote. In a nutshell, the processors' proposal to get a share of fishermen's quota is being widely viewed as poor public policy and counter to communities and states' interest in supporting fishermen to make a more sustainable livelihood. I hope the commissions don't feel like they have to bow to the interests of the largest seafood processors. (As an aside, according to the federal government, three large processors - with Pacific Seafoods and Bornsteins being #1 and #2 - process more than 80% of the Pacific groundfish harvest, so the fear tactics about the IFQ leading to processor consolidation ring a little bit hollow given the consolidation has already taken place.)

Please let me know if you have any questions about this.

Thank you,

Johanna Thomas
Hi Bernie, I just saw this. Yes, the GAC includes the state and federal agencies that sit on the pfmc: oregon, wa, ca, NOAA and Pacific States Marine Fisheries Commission. So it is important and influential. The fact that they voted down the processor shares indicates that it doesn't have much political support. If Astoria votes that way, they will be in good company.

Johanna Thomas
(415) 293 6069
Congress of the United States
Washington, DC 20515

October 15, 2008

Dr. James W. Balsiger
Acting Assistant Administrator
National Marine Fisheries Service
1315 East-West Highway, Room 14743
Silver Spring, MD. 20910

RE: West Coast Groundfish Individual Fishing Quota for Processors

Dear Dr. Balsiger:

Thank you for your efforts thus far to reform the West Coast groundfish fishery and ensure the longevity of this important resource. As the Pacific Fishery Management Council considers the development of an individual fishing quota (IFQ) program, precise details of the program’s design will be critical to restoring the fishery’s economic and ecological health. Properly constructed improvements can significantly benefit fishermen and the coastal communities that depend on the groundfish resource.

We understand that the Pacific Fishery Management Council reached a milestone in June when it voted on a preliminary preferred alternative as part of the draft EIS for the IFQ program. It is encouraging to know that NMFS has been supportive of Council efforts to improve management of this fishery.

However, fishermen and other constituents have expressed serious concern with one element of the IFQ package – initial allocation of harvesting shares to processors. The Council’s decision to grant 20% of the quota to processors will harm fishermen by increasing consolidation and marketing power in the processing sector, while failing to meet the Council’s stated goal of protecting coastal communities. This component sets bad precedent and could undermine the success of any IFQ program.

According to the most recent Stock Assessment and Fishery Evaluation document for the groundfish fishery, the three largest processing companies process well in excess of 75% of the groundfish on the Pacific coast. In contrast, a Council sponsored study on the economic effects of IFQ management in the Pacific groundfish fishery found that groundfish fishermen in aggregate currently have a profit margin of zero. Not only would allocation to processors take a 20% bite out of fishermen who are already struggling to stay in business, but it would also give powerful processors even more ability to mandate landing times and prices.

More importantly however, allocating quota to processors will not protect coastal communities, which was the stated rationale of many Council members. Because the quota will be allocated to processors on a company basis rather than a plant basis, and because many large processors own more than one facility, there is nothing to prevent...
those processors from consolidating that quota into a single plant. Nor is there anything
to prevent processors who hold quotas from moving to another location or simply selling
their quotas to processors in another port. Similar consolidation has happened in the
processing sector in the recent past, and there is nothing to prevent it from happening
again.

Finally, in all the IFQ programs that we are aware of in this country and around the
world, harvesting quota has never been granted to processors except for the recent and
highly controversial BSAI crab rationalization program in the North Pacific. Even when
processors have later been permitted to purchase harvest quota shares from fishermen,
this has sometimes resulted in excessive consolidation.

If the Council does not at least eliminate initial processor shares from the IFQ program, it
will send the signal to processors around the country that they should seek their own
allocation. This would make IFQ implementation much more contentious and likely put
a chilling effect on the further adoption of important IFQ management reforms.

In closing, we want to encourage NMFS to support a fair, well-designed IFQ program
that will transform the groundfish fishery from a fishery struggling with by-catch
problems and economic stagnancy into a vibrant, ecologically, and economically
sustainable fishery that will benefit fishermen, processors, coastal communities, and the
fishery resource. If you have any questions, please do not hesitate to contact Susan Jane
Brown (susanjane.brown@mail.house.gov; 202-225-6416) in Congressman DeFazio’s
office.

Sincerely,

Representative Peter DeFazio
Member of Congress

Senator Ron Wyden
Member of Congress

Representative Mike Thompson
Member of Congress

Senator Barbara Boxer
Member of Congress
Senator Diane Feinstein
Member of Congress
Representative George Miller
Member of Congress

Representative Sam Farr
Member of Congress

Representative Lois Capps
Member of Congress

Representative Rick Larsen
Member of Congress

Representative Darlene Hooley
Member of Congress

Representative Anna Eshoo
Member of Congress

Representative Earl Blumenauer
Member of Congress

Representative Thomas Allen
Member of Congress

cc: Governor Arnold Schwarzenegger
Governor Christine Gregoire
Governor Ted Kulongoski
Mary Glackin, Deputy Under Secretary for Oceans and Atmosphere, NOAA
Alan Risenhoover, Director of Sustainable Fisheries, NOAA
IN THE BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

RESOLUTION SUPPORTING THE  
PACIFIC FISHERIES MANAGEMENT  
COUNCIL'S DEVELOPMENT OF AN  
INDIVIDUAL FISHING QUOTA  
SYSTEM FOR THE WEST COAST  
TRAWL GROUNDFISH FISHERY  
AND OPPOSING ALLOCATION OF  
HARVESTING SHARES TO FISH  
PROCESSING COMPANIES  
RESOLUTION AND  
ORDER

Whereas: The West Coast Trawl Fishery adds an important component to the State of Oregon's coastal economy, producing more than 4,000 jobs, and creating $120 million in economic impacts, and;

Whereas: The West Coast Trawl Fishery adds an important component to the local economy of Clatsop County producing more than 800 jobs and creating more $30 million in economic impacts, and;

Whereas: The West Coast Groundfish Fishery is the largest component of the West Coast Trawl Fishery, and the Columbia River is the home port of the largest number of trawl vessels of any area in Oregon, and;

Whereas: The Pacific Fishery Management Council is developing an Individual Quota Program to strengthen the West Coast Groundfish Trawl Fishery and increase the economic benefit to coastal economies by increasing the incentives to conserve the fishery resource and by increasing the amount of harvest of species of fish from healthy stocks while avoiding the capture of species of fish from unhealthy stocks, and;

Whereas: The number of fish processing companies along the West Coast has decreased to a level where a very few companies process the groundfish landed by the West Coast Groundfish Trawl Fishery, and;

Whereas: The only rational to issue fish harvesting shares to processors that has been presented to the Pacific Fishery Management Council is to use these shares in an anti-competitive manner to prevent new processing companies from processing groundfish, and;

Whereas: No conservation benefit to the resource has been demonstrated by the allocation of harvesting shares to fish processing companies, and;
Whereas: A strong, healthy and stable fishing fleet is necessary to support healthy processing industries and realize the economic potential of the groundfish fishery, and;

Whereas: Allocating groundfish harvesting shares to processors weakens the fishing fleet and jeopardizes the ability of the West Coast Trawl Fishery to realize the maximum economic benefit possible, and;

Whereas: The motivation to conserve the fishery resources is weakened by allocating harvesting shares to processors and jeopardizes the conservation of the groundfish resource,

Therefore, be it resolved: Clatsop County supports the efforts of the Pacific Fishery Management Council to develop and implement an Individual Fishermen's Quota program for the West Coast Groundfish Trawl Fishery and opposes issuing harvesting shares to fish processing companies.

Dated this __________ day of __________, 2008

BOARD OF COUNTY COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

__________________________________________
Patricia J. Roberts, Chairperson
RESOLUTION NO. 2240

Introduced by: All Commissioners

Supporting the Pacific Fisheries Management Council's
Development of an individual Fishing Quota System for the West Coast
Trawl Groundfish Fishery and Opposing Allocation of Harvesting
Shares to Fish Processing Companies

WHEREAS, the West Coast Trawl Fishery is an important component of the Oregon
Coastal Economy; and

WHEREAS, the West Coast Trawl Fishery is an important component to the city of
Warrington, providing jobs and vital economic impacts to the community; and

WHEREAS, the West Coast Groundfish Fishery is the largest component of the West
Coast Trawl Fishery, and;

WHEREAS, the Columbia River is the home port of the largest number of trawl vessels
of any area in Oregon, and;

WHEREAS, the Pacific Fishery Management Council is developing an Individual Quota
program to strengthen the West Coast Groundfish Trawl Fishery and increase the
economic benefit to coastal economies by increasing the incentives to conserve the
fishery resource and by increasing the amount of harvest of species of fish from healthy
stocks while avoiding the capture of species of fish from unhealthy stocks; and

WHEREAS, the number of fish processing companies along the West Coast has
decreased to a level where a very few companies process the groundfish landed by the
West Coast Groundfish Trawl Fishery; and

WHEREAS, the only rational to issue fish harvesting shares to processors that has been
presented to the Pacific Fishery Management Council is to use these shares in an anti-
competitive manner to prevent new processing companies from processing groundfish;
and,

WHEREAS, a strong health and stable fishing fleet is necessary to support healthy
processing industries and realize the economic potential of the groundfish fishery; and

WHEREAS, allocating groundfish harvesting shares to processors weakens the fishing
fleet and jeopardizes the ability of the West Coast Trawl Fishery to realize the maximum
economic benefit possible; and
WHEREAS, the motivation to conserve the fishery resources is weakened by allocating harvesting shares to processors and jeopardizes the conservation of the groundfish resource.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WARRENTON that the City of Warrenton supports the efforts of the Pacific Fishery Management Council to develop and implement an Individual Fishermen's Quota program for the West Coast Groundfish Trawl Fishery and opposes issuing harvesting shares to fish processing companies.

Adopted by the City Commission of the City of Warrenton this 23rd day of September, 2006.

APPROVED

[Signature]
Gilbert Gramson, Mayor

ATTEST

[LSignature]
Linda Engbrethsen, City Recorder
Mr. Donald K. Hansen, Chairman  
Pacific Fishery Management Council  
7700 N.E. Ambassador Place, Suite 101  
Portland, OR 97220-1384  

Dear Chairman Hansen:

I am the owner and operator of the trawler Cape Windy which operates out of Warrenton, Oregon.

I feel the 20% processor allocation alternative is extremely anticompetitive and detrimental to fisherman and the traditional groundfish industry. Below I have described some of the major factors that exist in the current processor/harvester relationship.

Processors enjoy considerable advantages in negotiations under the current system. These advantages will be defensible for them even without initial allocation of harvester shares. A few of the major factors giving processors increased bargaining power over harvesters are:

- There are approximately 100 vessels harvesting vs. 3 major processors accounting for 85% of the processing.
- Boats have harvesting limits that prevent growth and consolidation. Processors have no limit on the percentage of fish they are allowed to process. This allows them to control huge market shares and achieve economies of scale that by law harvesters cannot do. ITQ’s will still have harvesting and ownership caps that will maintain this disadvantage for harvesters.
- High degree of vertical and horizontal integration within processing sector. This allows them to not only cross subsidize between seafood products, but also apply processing profits to subsidize their boats. Harvesters that are not involved in processing are disadvantaged because they have to compete without processing profits to invest in their boats. Horizontal and vertical integration also allows them to apply pressure on the retailer through controlling the flow of multiple products other than groundfish to them.

Evidence of this leverage over harvesters can be most easily demonstrated in a few ways:

1. Current average ex-vessel price of groundfish has remained largely stagnant for 10 years while the retail price has increased. Harvesters operate at break-even or below but cannot attain any of this increase (see attached graphics which use PacFIN data and can also be found on the FMA website www.trawl.org).
2. Major processors command a fuel surcharge while the fleet cannot.
3. During the tie-up in 2007, all price increases were negotiable but processors refused to even negotiate.
4. There are no laws preventing fisherman from selling to whomever they want, or marketing fish themselves, yet the vast majority sell to major processors.
Any new entrants in processing would have to overcome the above obstacles as well as the following barriers to entry

- High initial investment- plants can cost millions
- High fixed costs
- Huge economies of scale enjoyed by current processors. e.g. multiple product distribution, shared sales force
- Huge market shares that exist with current processors

Evidence of these barriers can be seen in the consolidation of the processing side as well as the absence of new entrants into the industry. These factors will still exist under ITQ even if the processors do not receive initial allocation. ITQ implementation will in fact increase the disadvantage of harvesters in some ways:

1. Increased competition. ~ 100 permits currently pursuing traditional groundfish now vs. ~170 permits receiving allocation. ITQ parameters may increase efficiency allowing more permit holders to pursue traditional groundfish.
2. Potential increase in amount of fish to harvest if species of concern are avoided.

More fish and more participants equates to more competition and potentially lower price.

Finally, if processors do receive initial allocation and use it the way that they have stated in public comment, it will further disadvantage harvesters.

1. 20% of any lease fees that exist will go to the processors. This will transfer 20% of the profits from the harvesting sector to the processing sector. The sector that is already getting 100% of the processing profits.
2. 20% processor allocation would be enough to control the remaining 80% by leveraging harvesters to deliver to them. This has been testified to by the processors themselves. This scares me most of all. I would argue that this would have the same effect as issuing processor shares directly and have the effect of establishing 100% shoreside processing privileges. Therefore, this would be illegal under MSA.

For these reasons, amongst many others, I would ask the council to take the GAC and TIQ committee’s recommendation and adopt a 0% processor share alternative.

Thank You,

[Signature]

Paul Kujala
Exvessel Price of Pacific cod

Year

$0.00 $0.10 $0.20 $0.30 $0.40 $0.50 $0.60 $0.70

Dollars per pound

81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 00 01 02 03 04 05 06 07 08

- Actual Dollars
- Adjusted for Inflation
Exvessel Price of Sanddabs

Dollars per pound

Year

81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 00 01 02 03 04 05 06 07 08

Actual Dollars  Adjusted for Inflation
Exvessel Price of English sole

Dollars per pound

Year


- Actual Dollars
- Adjusted for Inflation